

HOUSE BUSINESS AND LABOR COMMITTEE  
INFORMATION REGARDING HB 565, REP. K. PETERSON  
NEGLIGENCE PRINCIPLES IN WORKPLACE SAFETY ACT  
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**QUESTION:** Rep. Reinhart asked for an explanation of the differences between the Scaffold Act (50-77) and the Montana Safety Act (50-71)

**ANSWER:**

- 1) The "Scaffold Act", Title 50, Chapter 77 applies only to construction sites.
  - The Act requires employers and employees to follow safety practices commonly recognized in the construction industry as well as applicable state and federal safety laws; specifically related to scaffolds, temporary floors, planking above scaffolds, and guarding of stairways and openings.
  - There are no express administrative enforcement procedures provided in Title 50, chapter 77, MCA. Federal OSHA would apply comparable safety standards (rules) in the private sector based on authority established by the federal Occupational Safety and Health Act and the state Safety and Health Bureau would apply comparable safety standards in the public sector under authority in the Montana Safety Act..
  - 50-77-101(3) inserts "comparative negligence principles" into liability for damages caused by the negligence of the contractor, subcontractor, or builder.
  - The "Scaffold Act" was enacted in 1909, long before the concept of general government regulation of workplace safety.
- 2) The Montana Safety Act, Title 50, Chapter 71 is not limited to the construction industry.
  - The Act requires all employers to furnish a place of employment that is safe for each employee and to do anything reasonably necessary to protect the life, health and safety of employees.
  - The state Safety and Health Bureau in the department conducts inspections of public sector employers to insure compliance with workplace safety and health standards.
  - Federal Occupational Safety and Health Administration (OSHA) has exclusive jurisdiction to inspect all private places of employment.
  - The safety standards adopted by the department are very comparable to federal OSHA standards. Employers in the public and private sectors are held to the same safety standards.
  - The Montana Safety Act was enacted in 1969. The federal Occupational Safety and Health Act was enacted in 1970.
  - The Montana Safety Act does not include "comparative negligence principles" in the language of the Act.